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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
v.
ALFONSO ESPINOZA AVILES,
aka Arturo Herejon Abad
Defendant.

No. CR-12-560 JW

AMENDED [~~PROPOSED~~] ORDER
DETAINING DEFENDANT ALFONSO
ESPINOZA AVILES PENDING TRIAL

Date: August 17, 2012
Time: 9:30 a.m.
Court: Hon. Nandor J. Vadas

Defendant Alfonso Espinoza AVILES, aka Arturo Herejon Abad (AVILES) is charged in Counts 1, 2, and 3 of the five-count First Superseding Indictment. Count 1 charges AVILES with distribution of methamphetamine in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C). Count 2 charges the defendant with distribution of 5 grams or more of methamphetamine in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B). Count 3 charges the defendant with distribution of 50 grams or more of methamphetamine in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(A). The United States moved for defendant's detention pursuant to 18 U.S.C. § 3142,

[PROPOSED] DETENTION ORDER
No. CR-12-560 JW

1 and asked for a detention hearing, as permitted by 18 U.S.C. § 3142(f). Given the nature of the
2 crime charged, there is a rebuttable presumption in this case that no conditions or combination of
3 conditions will reasonably assure the appearance of defendant as required and the safety of any
4 other person and the community. See 18 U.S.C. § 3142(e)(3)(A). On August 17, 2012,
5 following a hearing pursuant to 18 U.S.C. § 3142(f), and considering the Pretrial Services
6 criminal history report, the criminal complaint filed in this case, and the factors set forth in 18
7 U.S.C. § 3142(g), the Court ordered defendant detained, as no condition or combination of
8 conditions in 18 U.S.C. § 3142(c) will reasonably assure the appearance of defendant as
9 required. See 18 U.S.C. §§ 3142(e) and (f); United States v. Motamedi, 767 F.2d 1403, 1406
10 (9th Cir. 1985).

11 After hearing argument from both counsel for the defendant and counsel for the
12 government, the Court granted the government's motion to detain. Specifically, the Court noted
13 that there was no surety; the defendant had a prior narcotics-related felony conviction; had used
14 different names, date of births, and social security numbers; the defendant failed to appear in
15 state court ; the defendant had significant ties to Mexico and had recently traveled there; and the
16 allegations contained in the complaint and indictment (including the presumption pursuant to 18
17 U.S.C. § 3142(e)(3)(A) referenced above).

18 The defendant reserved the right to present information at a future bail hearing should his
19 circumstances change. See 18 U.S.C. § 3142(f) (a defendant has the right at a section 3142(f)
20 hearing to, with the assistance of counsel, testify, present witnesses, cross-examine adverse
21 witnesses, and present evidence by proffer or otherwise).

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ORDER

Defendant is ordered detained as no condition or combination of conditions in 18 U.S.C. § 3142(c) will reasonably assure the appearance of defendant as required and the safety of any other person and the community.

Defendant is committed to the custody of the Attorney General or a designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or held in custody pending appeal. See 18 U.S.C. § 3142(i)(2). Defendant must be afforded a reasonable opportunity to consult privately with counsel. See 18 U.S.C. § 3142(i)(3). On order of a court of the United States or on request of an attorney for the government, the person in charge of the corrections facility must deliver defendant to the United States Marshal for a court appearance. See 18 U.S.C. § 3142(i)(4).

IT IS SO ORDERED.

DATED: August 20, 2012



HON. NANDOR J. VADAS
United States Magistrate Judge